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QUESTION OF CYPRUS

SECURITY COUNCIL
Fifty-fourth year

Letter dated 27 December 1999 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith a letter dated 22 December 1999, addressed to you by His Excellency Mr. Aytuğ Plûmer, Representative of the Turkish Republic of Northern Cyprus (see annex).

I should be grateful if the text of the present letter and its annex were circulated as a document of the General Assembly, under agenda item 63, and of the Security Council.

(Signed) Volkan VURAL
Ambassador
Permanent Representative

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ANNEX

Letter dated 22 December 1999 from Mr. Aytuğ Plümer addressed to the Secretary-General

Upon instructions from my Government, I have the honour to refer to the letters dated 2 and 30 November 1999 (A/54/522-S/1999/1120 and A/54/642-S/1999/1211, respectively) addressed to you by the Greek Cypriot representative at the United Nations, which contain allegations of "violations of the airspace of the Republic".

It will be recalled that similar allegations of so-called "airspace violations" were rejected in toto in our previous communications addressed to you, most recently in my letter dated 13 October 1999 (A/54/463-S/1999/1059, annex). Since the current allegations are no different from the preceding ones, they do not merit a detailed reply. I wish to reiterate, however, that flights within the sovereign airspace of the Turkish Republic of Northern Cyprus take place with the full knowledge and consent of the appropriate authorities of the State, over which the Greek Cypriot administration in the South has no jurisdiction or any right of say whatsoever.

The repeated allegations made by the Greek Cypriot administration are based on the false and unacceptable premise that its sovereignty extends over the whole island. This posture is completely detached from the current realities in the island, namely, the existence of two sovereign peoples and their respective states, and constitutes a major impediment to a comprehensive settlement.

In order to facilitate a realistic settlement, it should be openly acknowledged that the purely Greek Cypriot administration, whose jurisdiction extends only over the area of the island under Greek Cypriot control, is not and cannot be the Government of the Turkish Cypriot people or the island as a whole.

I should be grateful if the text of the present letter could be circulated as a document of the General Assembly, under agenda item 63, and of the Security Council.

(Signed) Aytuğ PLÜMER
Representative
Turkish Republic of Northern Cyprus

United Nations

A/54/695

General Assembly

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29 December 1999

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Fifty-fourth session
Agenda item 118
Review of the efficiency of the administrative and financial functioning of the United Nations

Proposed Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and experts on Mission

Report of the Secretary-General

Introduction

1. In resolution 52/252 of 8 September 1998, paragraph 9, the General Assembly requested the Secretary-General to expedite the submission to the Assembly, by its fifty-fourth session, of appropriate regulations and rules governing the status, basic rights and duties of the Secretary-General, officials other than Secretariat officials and experts on mission. The present report has been produced by the Secretary-General in response to the Assembly's request and contains his proposals for regulations governing the status, basic rights and duties ("Regulations") for:

(a) Officials who perform services for the United Nations on a substantially full-time basis but who are not staff members;[1]

(b) Experts who perform assignments for the Organization ("experts on mission").

The proposed Regulations are modelled on article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules, as revised pursuant to Assembly resolution 52/252, which came into effect on 1 January 1999.

2. A set of proposed regulations governing the status, basic rights and duties of the Secretary-General is the subject of a separate report (A/54/710).

II. Constitutional background

3. Article 105, paragraph 3, of the Charter of the United Nations empowers the General Assembly to make recommendations with a view to determining, *inter alia*, the privileges and immunities of "officials" of the Organization or to propose conventions to Member States for this purpose. The Assembly did so by adopting the Convention on the Privileges and Immunities of the United Nations[2] on 13 February 1946 (hereinafter called the "General Convention").

4. The United Nations has persons performing full-time services for it, at the direction of its legislative organs, who are not staff. For example, article 13 of the statute of the Joint Inspection Unit (approved by the General Assembly in its resolution 31/192 of 22 December 1976) provides that the Inspectors shall have the status of officials of the Organization but shall not be staff members. In addition, pursuant to article V, section 17, of the General Convention, the Secretary-General has specified and submitted to the Assembly

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proposals that a number of persons who occupy certain positions within the Organization be accorded privileges and immunities under articles V and VII of the General Convention, even though they are not staff members. Those persons are the presiding officers of United Nations organs performing functions for the Organization on a substantially full-time basis (for example, the Chairman of the Advisory Committee on Administrative and Budgetary Questions, the Chairman and Deputy Chairman of the International Civil Service Commission and the Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991) of 3 April 1991). Those officials are not in a separate category under the General Convention, but their names are submitted by the Secretary-General to the host country together with those of Secretariat officials who are staff members.

5. Experts on mission may be retained by way of a contract known as a special services agreement, which sets out the terms of their appointment and the tasks that they must discharge. Other individuals may have the status of experts on mission, even though they do not sign a special services agreement, if they are designated by United Nations organs to carry out missions or functions for the United Nations (for example, rapporteurs of the Commission on Human Rights, rapporteurs of its Subcommission on the Promotion and Protection of Human Rights or members of the Subcommission itself, and members of the International Law Commission).

6. Article VI of the General Convention provides that experts (other than officials coming within the scope of article V) shall be accorded privileges and immunities necessary to enable them to carry out their missions for the United Nations and specifies a number of those privileges and immunities. Article VII, section 26, of the General Convention provides that facilities similar to those specified in section 25 (concerning applications for visas and facilities for speedy travel) shall be accorded to experts and other persons who are travelling on the business of the United Nations.

III. Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission

A. Modality of promulgation

7. As officials other than Secretariat officials, and experts on mission perform duties for the Organization, the General Assembly might consider that they should also be subject to a set of regulations governing their status, basic rights and duties ("Regulations") in the same way that United Nations staff are subject to the regulations and rules contained in article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules, as revised pursuant to Assembly resolution 52/252.[3] A set of regulations has therefore been elaborated for officials and for experts on mission that is based on the revised article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules.

8. The present draft Regulations are to be adopted by the General Assembly and are to form part of the contract of employment or terms of appointment of any individual, including officials other than Secretariat officials and experts on mission, who are appointed through Assembly action or through the actions of other representative bodies.

B. Role of the Commentary

9. To assist the General Assembly in deliberating on this matter, the Secretary-General has prepared a Commentary to the individual provisions of the proposed Regulations. The Commentary is designed to explain those provisions and will thus also be of help to those subject to the Regulations. The Commentary is not part of the Regulations to be adopted by the Assembly, and so is not a legal "norm", nor does it have the legal force of a rule. It is, however, an official guide published by the Secretary-General on the scope and application of the Regulations. The Commentary will be updated from time to time in the light of experience gained in applying the code to specific instances.

10. So that individuals subject to the Regulations may have conveniently at hand a guide to their status, rights and duties, the text of the Regulations adopted by the General Assembly and the explanatory

Commentary prepared by the Secretary-General will be issued as an official publication in booklet form in the official languages of the United Nations.

C. Text of the draft Regulations and the Commentary

11. Annex I sets out the text of the draft Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission. It is envisaged that the General Assembly will adopt the Regulations, as from a specified date, in an annex to a resolution, and that those Regulations will then be published in a Secretary-General's bulletin, as has been the case with other regulations adopted by the Assembly. Annex II sets out the text of the Regulations together with the Commentary, which will be published in booklet form as described in paragraph 10 above.

Notes

[1] These persons have been consistently referred to by the General Assembly as "officials other than Secretariat officials".

[2] United Nations, *Treaty Series*, vol. I, No. 4, p. 15.

[3] Amendments to the 200 and 300 series of the Staff Rules have been promulgated to reflect the amendments to article I of the Staff Regulations and to bring them in line with the revised chapter I of the 100 series of the Staff Rules (see General Assembly resolution 52/252, para. 12).

Annex I

Draft Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission

Draft regulation 1
Status

(a) The responsibilities of officials other than Secretariat officials (hereinafter referred to as "officials") and of experts on mission are not national but exclusively international.

(b) Officials shall make the following written declaration witnessed by the Secretary-General or an authorized representative:

> "I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me by the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization."

(c) The Secretary-General shall seek to ensure that the rights and duties of officials and experts on mission, as set out in the Convention on the Privileges and Immunities of the United Nations,[a] are respected. The Secretary-General shall also seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for officials and experts on mission carrying out the responsibilities entrusted to them.

(d) Experts on mission will receive a copy of the present Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (hereinafter referred to as "Regulations") when they receive documentation from the United Nations relating to their mission and will be required to acknowledge receipt of the Regulations. Officials will receive a copy of the Regulations at an appropriate opportunity.

(e) The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of its Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to those who are covered by them to fail to observe the laws and police regulations of the State in which they are located nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, an official or an expert on mission shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived, in accordance with the relevant instruments.

Draft regulation 2
Conduct

(a) Officials and experts on mission shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

(b) In the performance of their duties, officials and experts on mission shall neither seek nor accept instructions from any Government or from any other source external to the Organization.

(c) Officials and experts on mission shall discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all individuals covered by the present Regulations.

(d) While the personal views and convictions of officials and experts on mission, including their political and religious convictions, remain inviolable, they shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. Officials and experts on mission shall conduct themselves at all times in a manner befitting their status. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

(e) Officials and experts on mission shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the gain of any third party, including family, friends and those they favour. Nor shall they use their office for personal reasons to prejudice the positions of those they do not favour.

(f) Officials and experts on mission shall exercise the utmost discretion in regard to all matters of official business. Officials and experts on mission shall not communicate to any Government, entity, person or any other source, any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. If they are not appointed by the Secretary-General, such authorization shall be conferred by the body that appointed them. These obligations do not cease upon the cessation of their official functions.

(g) Officials and experts on mission may not accept any honour, decoration, favour, gift or remuneration from any Government or non-governmental source for activities carried out while in the service of the United Nations.

(h) Officials and experts on mission shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern, if it were possible for them or the profit-making, business or other concern to benefit from such association or financial interest by reason of their position with the United Nations. Officials or experts on mission who are in such a situation shall either dispose of that financial interest or formally excuse themselves from

participating with regard to any involvement in that matter that has given rise to the conflict-of-interest situation.

(i) Officials and experts on mission shall file financial disclosure statements if requested to do so by the Secretary-General. The Secretary-General shall prescribe the format and information to be provided in such statements and shall establish procedures for filing them. The financial disclosure statements will remain confidential and will be used, as prescribed by the Secretary-General, only in making determinations pursuant to regulation 2 (h).

(j) Officials and experts on mission must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

(k) Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse, at the workplace or in connection with work, is prohibited.

(l) Officials and experts on mission shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

(m) Officials and experts on mission participating, as part of their official functions, in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source, may receive from the Government, intergovernmental organization, non-governmental organization or private source, accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases, the travel and subsistence allowance that may otherwise be payable by the United Nations shall be reduced in the same manner as in respect of staff members of the Organization.

Draft regulation 3
Accountability

Officials and experts on mission are accountable to the United Nations for the proper discharge of their functions.

Notes

[a] United Nations, *Treaty Series*, vol. I, No. 4, p. 15.

Annex II

Draft Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission together with explanatory Commentary

Draft regulation 1
Status

Regulation 1 (a)

The responsibilities of officials other than Secretariat officials (hereinafter referred to as "officials") and of experts on mission are not national but exclusively international.

Commentary

1. The United Nations has persons who perform services for it on a substantially full-time basis but who are not staff members. These persons have consistently been referred to by the General Assembly as "officials other than Secretariat officials". In addition, pursuant to article V, section 17, of the Convention on the Privileges and Immunities of the United Nations[a] of 13 February 1946 (hereinafter called the "General Convention"), the Secretary-General has specified and submitted to the Assembly proposals that a number of persons who occupy certain positions within the Organization be accorded the privileges and immunities under articles V and VII of the General Convention, even though they are not staff members. These persons have also been referred to as officials other than Secretariat officials.

2. The United Nations also has experts who perform assignments for the Organization. Article VI of the General Convention provides that experts (other than officials coming within the scope of article V) shall be accorded privileges and immunities necessary to enable them to carry out their missions for the United Nations and specifies a number of those privileges and immunities. These experts have been referred to as "experts on mission".

3. Draft regulation 1 (a) is similar to the second sentence of staff regulation 1.1 (a).[b]

* * *

Regulation 1 (b)

Officials shall make the following written declaration witnessed by the Secretary-General or an authorized representative:

> "I solemnly declare and promise to exercise in all loyalty, discretion and conscience the functions entrusted to me by the United Nations, to discharge these functions and regulate my conduct with the interests of the United Nations only in view, and not to seek or accept instructions in regard to the performance of my duties from any Government or other source external to the Organization."

Commentary

Draft regulation 1 (b), which is similar to staff regulation 1.1 (b), contains the declaration of office of officials and experts on mission.

* * *

Regulation 1 (c)

The Secretary-General shall seek to ensure that the rights and duties of officials and experts on mission, as set out in the Convention on the Privileges and Immunities of the United Nations, are respected. The Secretary-General shall also seek to ensure, having regard to the circumstances, that all necessary safety and security arrangements are made for officials and experts on mission carrying out the responsibilities entrusted to them.

Commentary

1. The first sentence of draft regulation 1 (c), which is similar to staff regulation 1.1 (c), codifies an implicit duty that falls upon the Secretary-General, namely, to seek to ensure that the rights and duties of officials and experts on mission as set out in the General Convention are respected (as such rights are granted by Governments, the Secretary-General can only "seek to ensure" that they are respected). The protection accorded to officials and experts on mission under this provision relates to their official acts and thus does not lapse upon cessation of their service for the Organization, or, if they are part-time, on days when they are not in service.

2. The second sentence of draft regulation 1 (c), which reproduces the essence of the second sentence of staff regulation 1.2 (c), sets forth the responsibility of the Secretary-General to seek to ensure the safety of officials and experts on mission.

* * *

Regulation 1 (d)

Experts on mission will receive a copy of the present Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (hereinafter referred to as "Regulations") when they receive documentation from the United Nations relating to their mission and will be required to acknowledge receipt of the Regulations. Officials will receive a copy of the Regulations at an appropriate opportunity.

Commentary

1. Experts on mission retained by the Secretariat sign a special services agreement or receive a letter or other documentation indicating the scope of their mission for the Organization. The special services agreement or other documentation will incorporate the Regulations by reference, and experts will be required to acknowledge that they will abide by the Regulations.

2. At times, legislative bodies entrust tasks to individuals to perform assignments for those bodies (for example, members and special rapporteurs of the International Law Commission and other bodies). Those individuals have the status of experts on mission. Although their appointments may have been concluded without the signature of any document of appointment, their attention will be drawn to the

Regulations when they receive documentation from the Secretariat relating to their functions and/or their assignment. That documentation will include a copy of the Regulations explaining that they were adopted by the General Assembly and thus constitute part of the conditions of those individuals' assignment for the United Nations.

3. Officials will receive a copy of the Regulations at an appropriate time, for example, when they make the declaration of office (see draft regulation 1 (b)).

* * *

Regulation 1 (e)

The privileges and immunities enjoyed by the United Nations by virtue of Article 105 of its Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to those who are covered by them to fail to observe the laws and police regulations of the State in which they are located nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, an official or an expert on mission shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived, in accordance with the relevant instruments.

Commentary

1. Draft regulation 1 (e), which deals with privileges and immunities, is similar to staff regulation 1.1 (f) (see paras. 32, 49, 54 and 55 of the *Report on Standards of Conduct in the International Civil Service 1954*,[c] which was prepared by the International Civil Service Advisory Board (hereinafter called the "ICSAB report")).

2. Draft regulation 2 (j) specifies the obligations on those who are covered by such privileges and immunities to honour their private legal obligations.

3. Pursuant to article V, section 20, and article VI, section 23, of the General Convention, it is only the Secretary-General who has the right to waive the privileges and immunities accorded to officials and experts on mission. In deciding whether such privileges and immunities exist and whether they should be waived, the Secretary-General may take into account the views of the legislative body that appointed the officials or experts on mission.

* * *

Draft regulation 2
Conduct

Regulation 2 (a)

Officials and experts on mission shall uphold the highest standards of efficiency, competence and integrity. The concept of integrity includes, but is not limited to, probity, impartiality, fairness, honesty and truthfulness in all matters affecting their work and status.

Commentary

1. Draft regulation 2 (a), which describes basic values expected of officials and experts on mission, is similar to staff regulation 1.2 (b).

2. The first sentence of draft regulation 2 (a) is derived from Article 101, paragraph 3, of the Charter of the United Nations by virtue of affirmatively placing upon officials and experts on mission the obligation to uphold the highest standards of efficiency, competence and integrity. As pointed out in paragraph 4 of the ICSAB report, the concept of integrity includes "honesty, truthfulness, fidelity, probity and freedom from corrupting influences".

* * *

Regulation 2 (b)

In the performance of their duties, officials and experts on mission shall neither seek nor accept instructions from any Government or from any other source external to the Organization.

Commentary

Draft regulation 2 (b), which is similar to staff regulation 1.2 (d), flows from the first sentence of Article 100, paragraph 1, of the Charter of the United Nations (see the ICSAB report, paras. 7, 18 and 31).

* * *

Regulation 2 (c)

Officials and experts on mission shall discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations, as set forth in its Charter, is a fundamental obligation of all individuals covered by the present Regulations.

Commentary

1. Draft regulation 2 (c) in substance contains the same obligations as are contained in staff regulation 1.2 (e) applicable to staff. The first sentence of draft regulation 2 (c) sets forth an idea that is contained in staff regulation 1.1 (a) and in staff regulation 1.1 (b), which contains the written declaration of office, that is to say, the idea that staff must regulate their conduct with the interests of the Organization only in view (see the ICSAB report, para. 4).

2. The second sentence of draft regulation 2 (c) focuses on the concept of loyalty to the aims, principles and purposes of the Organization as set forth in the Charter of the United Nations (which is alluded to in the declaration contained in draft regulation 1 (b)) (ibid., paras. 5, 6 and 21).

* * *

Regulation 2 (d)

While the personal views and convictions of officials and experts on mission, including their political and religious convictions, remain inviolable, they shall ensure that those views and convictions do not adversely affect their official duties or the interests of the United Nations. Officials and experts on mission shall conduct themselves at all times in a manner befitting their status. They shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status.

Commentary

1. Draft regulation 2 (d) is similar to staff regulation 1.2 (f). The core idea of conduct befitting an international civil servant was considered by the International Civil Service Advisory Board in 1954. The Advisory Board remarked that "high standards of conduct are best attained by a universal understanding among staff members of the relation between their conduct and the success of the international organizations, and by the development of a strong tradition among men and women who are jealous of the reputation of the organizations that they serve and are anxious to safeguard it". (See the ICSAB report, para. 2; also para. 4 on the integrity expected of international civil servants; paras. 5, 6 and 21 on loyalty; paras. 7 and 18 on independence; and paras. 8 and 48 on impartiality.)

2. In respect of the last sentence of the draft regulation, it would be for the Organization to characterize an action or pronouncement as adversely reflecting on the status of an official or an expert on mission.

* * *

Regulation 2 (e)

Officials and experts on mission shall not use their office or knowledge gained from their official functions for private gain, financial or otherwise, or for the gain of any third party, including family, friends and those they favour. Nor shall they use their office for personal reasons to prejudice the positions of those they do not favour.

Commentary

1. Draft regulation 2 (e), which is similar to staff regulation 1.2 (g), codifies principles set out in the ICSAB report (see, paras. 17, 28 and 42). The use of one's office for personal gain is clearly unacceptable. This includes not only conducting a business from a United Nations office but also such activities as using United Nations facilities for a business, using the United Nations name, logo or address for a business and approving a contract for a family business without disclosure. Draft regulation 2 (e) also reflects the principle set out in staff regulation 1.2 (g) that a staff member shall not use information that has not been made public for the private advantage of the staff member or of any third party.

2. The draft regulation, for clarity, makes specific reference to prohibiting an official or expert on mission from so favouring a third party, including family or friends, as to enable that third party to profit from the position of the official or expert on mission or from the exercise of his or her functions. The term "friends" is broad and seeks to encompass not only friends as normally understood, but also relationships that are not recognized by the United Nations as creating a dependency.

3. The draft regulation also prohibits the use of office or knowledge gained from that office for personal reasons to prejudice or harm third parties.

* * *

Regulation 2 (f)

Officials and experts on mission shall exercise the utmost discretion in regard to all matters of official business. Officials and experts on mission shall not communicate to any Government, entity, person or any other source, any information known to them by reason of their official position that they know or ought to have known has not been made public, except as appropriate in the normal course of their duties or by authorization of the Secretary-General. If they are not appointed by the Secretary-General, such authorization shall be conferred by the body that appointed them. These obligations do not cease upon the cessation of their official functions.

Commentary

1. Draft regulation 2 (f), which is similar to staff regulation 1.2 (i), reflects the principle that official information may not be used for private purposes, except with authorization. This flows from the idea that officials and experts on mission are obligated to regulate their conduct with the interests of the Organization only in view (see the ICSAB report, para. 4) and also from the requirements of draft regulation 2 (e). It follows that permission must be obtained for disclosure to third parties of information that has not been made public, unless such disclosure is specifically authorized or is in the normal course of duties of the official or expert on mission. Authorization of the Secretary-General is not required for officials and experts on mission who have not been appointed by the Secretary-General. Those officials and experts on mission would require the authorization of the body that had appointed them if the communication of the information was not a normal part of their duties.

2. The last sentence of the draft regulation provides that the obligations contained in the provision do not cease upon cessation of official functions. It may be difficult to enforce such a provision, but, at the very least, if a former official or expert on mission ignored the obligations contained in this draft regulation, the official file of the former official or expert on mission could be noted so as to prevent his or her re-engagement.

* * *

Regulation 2 (g)

Officials and experts on mission may not accept any honour, decoration, favour, gift or remuneration from any Government or non-governmental source for activities carried out while in the service of the United Nations.

Commentary

To ensure that officials and experts are perceived as impartial, draft regulation 2 (g) prohibits the acceptance of any honour, decoration, favour, gift or remuneration from any Government or non-governmental source for activities carried out while in the service of the United Nations.

* * *

Regulation 2 (h)

Officials and experts on mission shall not be actively associated with the management of, or hold a financial interest in, any profit-making, business or other concern, if it were possible for them or the profit-making, business or other concern to benefit from such association or financial interest by reason of their position with the United Nations. Officials or experts on mission who are in such a situation shall either dispose of that financial interest or formally excuse themselves from participating with regard to any involvement in that matter that has given rise to the conflict-of-interest situation.

Commentary

1. The first sentence of draft regulation 2 (h) is similar to staff regulation 1.2 (m). The purpose of the provision is to put officials and experts on mission on notice that they cannot be actively associated with a profit-making, business or other concern, if either the concern or the official or expert on mission is to profit therefrom by reason of the association with the Organization. It will be for the Secretary-General or the appointing authority to judge whether a particular act has given rise to a conflict-of-interest situation.

2. The second sentence of draft regulation 2 (h) is similar to the second part of staff rule 101.2 (n) which deals with the consequences of a staff member's having a possible conflict-of-interest situation. In such cases, the official or expert on mission shall dispose of the interests or, if practicable, shall excuse himself or herself from dealing with the matter on behalf of the Organization.

3. Generally, experts on mission are appointed on a part-time basis, and it is therefore likely that they are engaged in other activities, including employment, when they are not performing services for the Organization. While there is no question that experts on mission may be so engaged, they must ensure that those activities are not incompatible with their status or functions as experts on mission.

* * *

Regulation 2 (i)

Officials and experts on mission shall file financial disclosure statements if requested to do so by the Secretary-General. The Secretary-General shall prescribe the format and information to be provided in such statements and shall establish procedures for filing them. The financial disclosure statements will remain confidential and will be used, as prescribed by the Secretary-General, only in making determinations pursuant to regulation 2 (h).

Commentary

Draft regulation 2 (i) is similar to, but more general than, staff regulation 1.2 (n), which requires all staff at the assistant secretary-general level and above to submit financial disclosure statements upon appointment and at intervals as prescribed by the Secretary-General, in respect of themselves and their dependent children, including any substantial transfers of assets and property to spouses and dependent children from the staff member or from any other source that might constitute a conflict of interest. This requirement is designed to minimize the risk of a perception of officials and experts on mission as using their position for personal gain. The draft regulation enables the Secretary-General to require officials and experts on mission to file financial disclosure statements, which will remain confidential and will be used only in dealing with conflict-of-interest situations, for example, in assessing whether an official was in such a situation.

* * *

Regulation 2 (j)

Officials and experts on mission must comply with local laws and honour their private legal obligations, including, but not limited to, the obligation to honour orders of competent courts.

Commentary

1. Draft regulation 2 (j), which is similar to staff rule 101.2 (c), is really an amplification of draft regulation 1 (e) which provides that the privileges and immunities of the Organization afford no excuse for non-performance of private obligations (see the ICSAB report, paras. 32, 54 and 55).

2. Draft regulation 2 (j) makes clear that private obligations must be honoured. It is the responsibility of those subject to the present Regulations, if they have a court order against them that they contest, to avail themselves of all means existing under the applicable national law to appeal the order and/or to secure relief from the obligation to comply with the order pending its appeal.

* * *

Regulation 2 (k)

Any form of discrimination or harassment, including sexual or gender harassment, as well as physical or verbal abuse, at the workplace or in connection with work, is prohibited.

Commentary

Draft regulation 2 (k), which is similar to staff rule 101.2 (d), reproduces the core of Secretary-General's bulletin ST/SGB/253 of 29 October 1992, which established United Nations policy on equal treatment of men and women in the Secretariat and also prohibited all forms of discrimination or harassment.

* * *

Regulation 2 (l)

Officials and experts on mission shall not intentionally misrepresent their functions, official title or the nature of their duties to Member States or to any entities or persons external to the United Nations.

Commentary

Draft regulation 2 (l) is similar to staff rule 101.2 (f) which prohibits the intentional misrepresentation of an official title or duties to outside parties, for example, by placing misleading titles on business cards. The use of the word "intentional" makes clear that this does not refer to careless or accidental acts.

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Regulation 2 (m)

Officials and experts on mission participating, as part of their official functions, in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source, may receive from the Government, intergovernmental organization, non-governmental organization or private source, accommodation and travel and subsistence allowance generally in line with those payable by the United Nations. In such cases, the travel and subsistence allowance that may otherwise be payable by the United Nations shall be reduced in the same manner as in respect of staff members of the Organization.

Commentary

1. Draft regulation 2 (m), which is similar to staff rule 101.2 (s), deals with the issue of participation at various official functions. Officials and experts on mission, who as part of their official functions participate in activities organized by a Government, intergovernmental organization, non-governmental organization or other private source, may receive from it accommodation and travel and subsistence allowance generally in line with those payable by the United Nations, and in such cases the allowances that may otherwise be payable by the United Nations shall be reduced in the same amount as in respect of staff members of the Organization. Such provisions are presently found in staff rule 107.15 (a).

2. It should be noted that accommodation and travel and subsistence allowance may be accepted only if doing so would be appropriate to the status of officials and experts on mission and to the integrity, independence and impartiality that are required by that status. There may therefore be situations in which it would not be appropriate to accept those allowances from a Government, intergovernmental organization, non-governmental organization or other private source.

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Draft regulation 3
Accountability

Officials and experts on mission are accountable to the United Nations for the proper discharge of their functions.

Commentary

Draft regulation 3, which is similar to staff regulation 1.3 (a), makes clear that officials and experts on mission are accountable for their actions. The method of accountability may vary. For officials appointed by the General Assembly, that accountability would be a matter for the Assembly. For experts on mission, it would be the Secretary-General or the appointing authority who could terminate an assignment or otherwise admonish the expert.

Notes

[a] United Nations, *Treaty Series*, vol. I, No. 4, p. 15.

[b] Hereinafter, staff regulations and rules refer to the provisions contained in article I of the Staff Regulations and chapter I of the 100 series of the Staff Rules which came into effect on 1 January 1999, pursuant to General Assembly resolution 52/252.

[c] A/52/488 and Add.1, annex.